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**MEMO ENDORSED**

July 27, 2007

**P3**VIA FEDERAL EXPRESS

Hon. Richard Berman  
 United States District Court  
 Southern District of New York  
 500 Pearl Street, Courtroom 19  
 New York, New York 10007

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**RECEIVED**  
 JUL 31 2007  
 CHAMBERS OF  
 RICHARD M. BERMAN  
 U.S.D.J.

Re: *Grunstein et al. v. Silva et al.*  
 07 CIV. 3712

Dear Judge Berman:

I represent plaintiffs in the above-captioned action. On July 23, 2007 counsel for both sides appeared before you, for a pre-motion conference. At that time, your Honor set a timetable for the motion to dismiss, with a deadline of August 3, 2007 for plaintiffs to file an amended complaint and August 17, 2007 for defendants to move to dismiss the amended complaint. I am writing this letter to request that your Honor extend all the dates for the submission for the amended complaint; and the timetable for the motion to dismiss (but not the deadline for the close of discovery) by two weeks for the reasons discussed below. I am authorized to state that the defendants' counsel agrees to this request.

At the pre-motion conference, counsel for defendants stated for the first time, that one of the grounds for the forthcoming motion to dismiss is the absence of subject

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matter jurisdiction, based on his contention that one of the members of defendant Geary Property LLC is in Maryland domiciliary. According to Mr. Donley, this would destroy diversity jurisdiction, since two of the plaintiffs are citizens of Maryland.

In an effort to verify the information given to us by Mr. Donley, I asked him to supply a certificate of incorporation for the member in question (Beverly Enterprises Maryland, Inc., a California corporation), so that I could see if the certificate states its principal place of business. After checking with his client, Mr. Donely told me that he was not authorized to send the certificate of incorporation to me. While the certificate of incorporation of this California corporation is publicly available, I am informed that the Secretary of State of California does not provide expedited service for requests of this kind, and that it will take at least six to eight days to get this document.

Plaintiffs have no desire to burden this Court with motion practice where the pertinent facts are ready ascertainable, albeit, in one week. Accordingly, we respectfully request a two week extension so that we can obtain the certificate of incorporation from the California Secretary of State. If the certificate of incorporation does set forth a principal place of business for the member in question in Maryland, plaintiffs will have to decide whether to drop Geary as a defendant in this action, or to re-file this action in State Court against all of the defendants including Geary.

Although I should have the relevant information within the next 8 days, I will be out of the country from August 5 to August 12. That is the reason for the request for two additional weeks.

2 week extensions granted.

SO ORDERED:  
Date: 7/31/07 Richard M. Berman  
Richard M. Berman, U.S.D.J.